

# BRAIN INJURY RIGHTS GROUP

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November 18, 2024

The request is granted. Plaintiffs shall submit a response to Defendants' letter by November 20, 2024.

## VIA ECF

Honorable John P. Cronan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

SO ORDERED  
November 19, 2024  
New York, New York

  
JOHN P. CRONAN  
United States District Judge

Re: *Donohue et al. v. Banks et al.*, Case No. 22-cv-08998 (JPC)

Dear Judge Cronan:

As you may recall, the undersigned represents the Plaintiffs in the above-referenced matter. The Plaintiffs write in response to the Defendants' letter filed today [ECF No. 115], requesting that the Court enter judgment determining that the Plaintiffs are not entitled to reimbursement for transportation due to purported "deficiencies in the documentation provided."

The Plaintiffs respectfully request the opportunity to provide a more fulsome response to the Defendants' letter motion, such as it is, which raises issues and arguments that were neither anticipated nor communicated to the Plaintiffs in advance. The Plaintiffs have diligently provided all documentation the Defendants requested, as required by Your Honor, throughout this litigation, and in accordance with the Court's Opinion and Order. [ECF No. 85].

The Plaintiffs were provided with no notice before the Defendants filed their letter motion this afternoon. On Friday, November 15, Bradley Click, a law clerk from my office, contacted Ms. Dainow about the parties' proposed judgment, as I was out of the office because I was not feeling well. Ms. Dainow informed Mr. Click that she was no longer assigned to this matter, and that Mr. Maiello would be handling it going forward. Mr. Click emailed Mr. Maiello about the proposed judgment. Plaintiffs had prepared a draft proposed judgment and wanted to discuss it with counsel. Mr. Maiello responded to Mr. Click's email as follows:

**"Hi Bradley,**

**Thank you - we are aware and preparing our submission. Please let me know if you would like to discuss on Monday or next week.**

**Have a good weekend as well.**

**Thank you,**

**Maxim Maiello"**

Inexplicably, Mr. Maiello filed his Notice of Appearance this afternoon at 1:33 p.m., and the Defendants' letter motion at 2:02 p.m. Although the Court did not direct the parties to file a joint letter, the Court directed the parties to file a proposed judgment—an order that implied some collaboration between the parties, which did not happen despite the Plaintiffs' attempts at the same.

The Plaintiffs have had minimal opportunity to engage with Defendants' new counsel. Perhaps the abrupt transition from Ms. Dainow to Mr. Maiello contributed to misunderstandings or mischaracterizations of the extensive materials the Plaintiffs have provided in support of their claims—materials the Defendants requested. The Defendant's letter mischaracterizes the documentation provided and appears to contravene the Court's prior Opinion and Order.

Plaintiffs have already drafted a proposed judgment in accordance with the Court's directives and remain committed to addressing any outstanding concerns. However, given the timing and scope of the Defendants' letter motion, the Plaintiffs respectfully request until November 20, 2024, to submit a more comprehensive response to the Defendants' letter motion.<sup>1</sup> The additional time requested to respond to the Defendants' letter motion will ensure that the Plaintiffs fully and accurately address the issues raised by the Defendants.

The Plaintiffs thank the Court for its courtesy and consideration.

Respectfully submitted,

*Rory J. Bellantoni*

Rory J. Bellantoni (RB2901)

Cc: All Counsel of Record via ECF.

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<sup>1</sup> Plaintiffs' counsel was engaged throughout the day with other motions and submissions that were due today. Even at this late hour, Plaintiffs' counsel is reviewing and finalizing two memoranda of law to be filed in *Thomas et al. v. Banks et al.*, 24-cv-05138, pending before Judge Rochon.